

JANET M. HEROLD
Regional Solicitor
SUSAN SELETSKY
Chief Counsel for FLSA Litigation
CHARLES SONG (CSBN 204497)
Trial Attorney
Song.Charles@dol.gov
United States Department of Labor
Office of the Solicitor
350 S. Figueroa St., Suite 370
Los Angeles, CA 90071
Phone: (213) 894-5365
Fax: (213) 894-2064
Attorneys for Plaintiff

UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA

R. ALEXANDER ACOSTA,)
Secretary of Labor,)
United States Department of Labor,)
Plaintiff,)

v.)

AUTHENTIC BROTHERS TOWING,)
INC., a corporation; FRANCISCO)
VASQUEZ, an individual; JUDITH)
VASQUEZ, an individual,)
Defendants.)

**COMPLAINT FOR VIOLATIONS
OF THE FAIR LABOR
STANDARDS ACT**

1 **FACTS COMMON TO ALL CAUSES OF ACTION**

2 9. Defendants Francisco Vasquez and Judith Vasquez own and operate
3 Authentic Towing, and operate the company out of the same location for the same
4 business purpose. The business address for Authentic Towing is 979 N. Parker
5 Street, Orange, CA 92867. Authentic Towing is an enterprise within the meaning
6 of FLSA Section 3(r)(1), 29 U.S.C. § 203(r)(1) in that its operations are jointly
7 controlled by Judith Vasquez and Francisco Vasquez as a for profit business.
8

9 10. Authentic Towing at all relevant times has been an enterprise engaged
10 in commerce or in the production of goods for commerce within the meaning of
11 Section 3(s)(1)(A) of the FLSA, 29 U.S.C. § 203(s)(1)(A), in that said enterprise at
12 all relevant times had employees engaged in commerce or in the production of
13 goods for commerce, or employees handling, selling, or otherwise working on
14 goods or materials that have been moved in or produced for commerce and an
15 annual gross volume of sales done of not less than \$500,000.

16 11. Defendants employ drivers and service providers. As Authentic
17 Towing responded to requests for service twenty-four (24) hours a day, seven (7)
18 days a week, at least one driver was always working. Employees worked eight (8)
19 hour shifts during the day which were recorded and paid on an hourly basis
20 through payroll. Some employees also worked hours beyond their eight (8) hour
21 shift and night shifts from approximately 10:00 p.m. to approximately 8:00 a.m.
22 Defendants failed to record night shift hours and hours beyond employees' regular
23 schedules and paid employees commissions for these hours by check or cash
24 separately from the employee payroll.
25

FIRST CLAIM FOR RELIEF
(Violation of Recordkeeping Provisions of the FLSA)

12. The Secretary incorporates by reference and realleges the allegations in paragraphs 1 through 11 above.

13. During the Subject Period, Defendants, employers subject to the provisions of the FLSA, repeatedly and willfully violated Sections 11(c) and 15(a)(5) of the FLSA, 29 U.S.C. §§ 211 and 215(a)(5), in that they failed to make, keep, and preserve adequate and accurate records of employees and the wages, hours and other conditions and practices of employment maintained by them, as required by the FLSA and its prescribed regulations under 29 C.F.R. § 516.

14. Specifically, Defendants failed to maintain required records including, but not limited to, records reflecting the actual hours worked by employees, hours worked over 40 in the workweek, and wages paid to employees. Defendants failed to maintain accurate records of the employees' hours worked as the time records did not reflect all hours worked by employees, including graveyard shifts.

SECOND CLAIM FOR RELIEF
(Violation of Minimum Wage Provisions of the FLSA)

15. The Secretary incorporates by reference and realleges the allegations in paragraphs 1 to 14 of the Complaint.

16. During the Subject Period, Defendants, employers subject to the provisions of the FLSA, repeatedly and willfully violated the minimum wage provisions of the FLSA Sections 6 and 15(a)(2), 29 U.S.C. §§ 206 and 215(a)(2), by paying their employees' wages at rates less than the effective minimum wage in workweeks when said employees were engaged in commerce or in the production of goods for commerce, or were employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the FLSA.

1 17. During the Subject Period, Defendants paid some employees at rates
2 less than the federal minimum wage.

3 **THIRD CLAIM FOR RELIEF**
4 **(Violation of Overtime Provisions of the FLSA)**

5 18. The Secretary incorporates by reference and realleges the allegations
6 in paragraphs 1 through 17 of the Complaint.

7 19. During the Subject Period, Defendants, employers subject to the
8 provisions of the FLSA, repeatedly and willfully violated Sections 7 and 15(a)(2)
9 of the FLSA, 29 U.S.C. §§ 207 and 215(a)(2), by failing to pay their employees at
10 rates not less than one and one-half times the employees' regular rate of pay in
workweeks when the employees worked more than 40 hours.

11 20. During the Subject Period, Defendants' employees routinely worked
12 in excess of 40 hours per workweek. Defendants failed to pay their employees at
13 rates not less than one and one-half times the employees' regular rate of pay in
14 workweeks when the employees worked more than 40 hours.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, cause having been shown, the Secretary prays for judgment
17 against Defendants as follows:

18 (a) For an Order under Section 17 of the FLSA, 29 U.S.C. § 217,
19 permanently enjoining and restraining Defendants, their officers, agents, servants,
20 employees, and those persons in active concert or participation with them from
21 prospectively violating Sections 6, 7, 11, 15(a)(2) and 15(a)(5) of the FLSA, 29
22 U.S.C. §§ 206, 207, 211, 215(a)(2) and 215(a)(5)

23 (b) For an Order awarding the Secretary the costs of this action; and

24 (c) For an Order granting such other and further relief as may be
25 necessary or appropriate.

1 Dated: May 26, 2017

2 NICHOLAS C. GEALE
3 Acting Solicitor of Labor

4 JANET M. HEROLD
5 Regional Solicitor

6 SUSAN SELETSKY
7 Chief Counsel for FLSA Litigation

8 /s/ Charles Song
9 CHARLES SONG
10 Trial Attorney

11 UNITED STATES
12 DEPARTMENT OF LABOR
13 Attorneys for the Plaintiff
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